

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF KANSAS**

**United States of America,**

**Plaintiff/Respondent,**

**v.**

**Case No. 07-20168-04-JWL**

**Shevel M. Foy,**

**Defendant/Petitioner.**

**MEMORANDUM & ORDER**

In 2009, a jury convicted defendant Shevel Foy of conspiracy to manufacture, possess with intent to distribute or to distribute cocaine base and/or cocaine. The court sentenced Mr. Foy to 360 months imprisonment. *See id.*

This matter is presently before the court on Mr. Foy's motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A) (doc. #1912). Mr. Foy has not indicated that he has satisfied the statute's exhaustion requirement. *See id.* (defendant may bring a motion after he has exhausted administrative appeals of the BOP's failure to bring a motion on defendant's behalf or after the lapse of 30 days from the receipt of such a request by the warden, whichever is earlier). Accordingly, the motion is dismissed for lack of jurisdiction, without prejudice to the filing of another motion once Mr. Foy has satisfied the exhaustion requirement.<sup>1</sup>

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<sup>1</sup> Mr. Foy's deadline to file a reply to the government's response to his motion was July 6, 2020. That deadline has passed with no reply filed by Mr. Foy. Nonetheless, Mr. Foy is not prejudiced by the court's resolution of the motion without the reply brief, as he may simply refile his motion once he has exhausted his administrative remedies.

**IT IS THEREFORE ORDERED BY THE COURT THAT** Mr. Foy's motion for compassionate release (doc. 1912) is dismissed for lack of jurisdiction.

**IT IS SO ORDERED.**

Dated this 13th day of July, 2020, at Kansas City, Kansas.

*s/ John W. Lungstrum*

John W. Lungstrum

United States District Judge